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17 Richard W. Colburn, Carol Colburn Grigor
18 and Keith W. Colburn

19 UNITED STATES BANKRUPTCY COURT
20 NORTHERN DISTRICT OF CALIFORNIA
21 SANTA ROSA DIVISION

22 In re
23 JACQUELINE ANN COLBURN, A/K/A
24 JACQUELINE ANN GASSER.
25 Debtor

Chapter 7
Case No.: 13-10210-AJ
Adv. No.:

26 COLETTE MCDOUGALL,
27 RICHARD W. COLBURN,
28 CAROL COLBURN GRIGOR
AND KEITH W. COLBURN,
Plaintiffs,

**ADVERSARY COMPLAINT FOR
EXCEPTION TO DISCHARGE OF
DEBT FOR WILLFUL AND
MALICIOUS INJURY TO ANOTHER
(11 U.S.C. § 523(a)(6))**

vs.

JACQUELINE ANN COLBURN, A/K/A
JACQUELINE ANN GASSER.
Defendant

1 Plaintiffs Colette McDougall (“Colette”), Richard W. Colburn (“Richard W”), Carol
2 Colburn Grigor f/k/a Carol Colburn-Hogel (“Carol”) and Keith W. Colburn (“Keith”)
3 (collectively, “Plaintiffs”) allege as follows:

4 JURISDICTION AND VENUE

5 1. The Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C.
6 §§157 and 1334(b), 11 U.S.C. § 523(a) and U.S. Bankruptcy Court General Order 266.

7 2. This is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(I).

8 3. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

9 4. This adversary proceeding relates to the above-captioned voluntary chapter 7 case
10 of Debtor and Defendant Jacqueline Ann Colburn, a/k/a Jacqueline Ann Gasser
11 (“Defendant”) filed on January 31, 2013.

12 PARTIES

13 5. Plaintiffs are judgment creditors of Defendant holding unsecured claims in the
14 aggregate principal amount of \$4,051,789.91.

15 6. Colette, an individual, is and at all times relevant was a resident of the County of
16 Los Angeles, State of California. Colette is a judgment creditor of Defendant with an
17 unsecured claim in the principal amount of \$1,070,322.59.

18 7. Richard W, an individual, is and at all times relevant was a resident of the State
19 of Illinois. Richard W is a judgment creditor of Defendant with an unsecured claim in the
20 principal amount of \$1,646,622.26.

21 8. Carol, an individual, is and at all times relevant was a resident of Scotland,
22 United Kingdom. Carol is a judgment creditor of Defendant with an unsecured claim in the
23 principal amount of \$473,622.88.

24 9. Keith, an individual, is and at all times relevant was a resident of the State of
25 Illinois. Keith is a judgment creditor of Defendant with an unsecured claim in the principal
26 amount of \$861,222.18.

27 10. Defendant, an individual, is and at all times relevant was a resident of the State of
28 California, and the Debtor in the instant chapter 7 bankruptcy case.

1 **FACTUAL BACKGROUND**

2 **Relationships to Richard D. Colburn**

3 11. The late Richard D. Colburn ("Richard D") was an entrepreneur and well-known
4 Los Angeles philanthropist. At all times relevant, Richard D lived at 1120 La Collina Drive,
5 Beverly Hills, California (the "Residence").

6 12. At all times relevant, Colette was employed as either the personal assistant to
7 Richard D or the property manager for the Residence and, in that capacity, reported to Richard
8 D.

9 13. Richard W and Keith are the adult sons of Richard D.

10 14. Carol is the adult daughter of Richard D.

11 15. In May 1998, Defendant, then 38 years old, married Richard D, then 85 years
12 old, and thereby became Richard D's eighth wife.

13 **Wiretapping and Recording of Calls**

14 16. Approximately 18 months later, in or around December 1999, Defendant
15 retained a divorce attorney who suggested that Defendant hire the services of private
16 investigator Anthony Pellicano ("Pellicano"). In mid-December 1999, Defendant met directly
17 with Pellicano in the presence of her divorce attorney, but initially declined to hire him at that
18 time.

19 17. By bribing Pacific Bell employees to provide access to proprietary phone
20 company systems and databases, Pellicano was able to place wiretaps on the telephone
21 landlines serving the Residence (including those serving Richard D's home office at the
22 Residence). Pellicano used the wiretaps to intercept incoming and outgoing calls to and from
23 the Residence and utilized proprietary software called TeleSleuth to record the intercepted
24 telephone conversations and to store those recordings on computer hard drives at Pellicano's
25 office. The TeleSleuth wiretapping software, once implemented, automatically recorded all
26 incoming and all outgoing calls on the wiretapped telephone lines.

27 18. In late-December 1999, Pellicano called Defendant and invited her to his office in
28 Beverly Hills. He told Defendant that he had something of interest that she should hear. When

1 she arrived, Pellicano played an audio recording of Richard D and another woman engaged in
2 a telephone conversation of a graphic sexual nature. Defendant promptly hired Pellicano,
3 paying him with two checks, both dated December 29, 1999, totaling \$15,000.

4 19. Over the course of approximately two and one-half weeks thereafter, Defendant
5 returned each day to Pellicano's office, and with the assistance and knowledge of Pellicano and
6 Pellicano's employees, utilized headphones to listen to recorded calls to and from the
7 Residence.

8 20. In January 2000, contemporaneously with her then daily visits to Pellicano's
9 office, Defendant paid Pellicano an additional \$100,000 by way of a cashier's check dated
10 January 6, 2000.

11 21. In addition to paying him cash totaling at least \$115,000, Defendant gave
12 Pellicano jewelry worth an estimated \$500,000. In January 2000, she further confirmed
13 Pellicano's retention as her agent by executing a Limited Power of Attorney appointing
14 Pellicano as her "attorney-in-fact." Notably, *Defendant paid Pellicano and executed the Limited*
15 *Power of Attorney after becoming aware that Pellicano was engaging in illegal wiretapping of the*
16 *Residence.*

17 22. From December 1999 through at least August 2000, with Defendant's knowledge
18 and ratification, Pellicano's remote wiretapping system recorded all calls to and from the
19 Residence, day and night, including hundreds of private calls between and among Plaintiffs, on
20 one hand, and Richard D and others at the Residence, including calls involving business
21 associates, doctors, lawyers and other advisors and confidantes. Pellicano and Defendant at all
22 times kept their eavesdropping and recordings secret from Plaintiffs.

23 23. In May 2000, Defendant filed for divorce from Richard D.

24 24. Defendant, who had occupied the Residence with Richard D since 1997, moved
25 out of the Residence in or around August 2000.

26 25. Defendant boasted to one of her massage therapists that she had hired the "best
27 investigator in Los Angeles" who was wiretapping the Residence (both before and after she
28 vacated the Residence) to obtain information that would be advantageous to her in her divorce

1 from Richard D. Such admissions establish that the wiretapping and recording of calls to and
2 from the Residence continued through at least August 2000. An initial marital settlement
3 agreement was entered by Defendant and Richard D in October 2000, and Pellicano continued
4 to act on Defendant's behalf until at least the execution of that marital settlement agreement.

5 26. In January 2002, the divorce of Defendant and Richard D became final.

6 **FBI Raid**

7 27. In late 2002, the FBI raided Pellicano's offices and found hand grenades, plastic
8 explosives, large amounts of cash and jewels, and a room full of computers connected to phone
9 jacks. Agents seized, among other things, records, computers, hardware, files, and other
10 evidence that suggested wide-ranging wiretapping. They then conducted extensive interviews
11 of Pellicano's employees and clients.

12 28. The FBI interviewed Defendant in May 2003. Defendant admitted to the FBI
13 that she: (a) had retained Pellicano, (b) knew of Pellicano's wiretapping of the Residence, (c)
14 knew that wiretapping is illegal, and (d) never instructed Pellicano to stop. She also told the
15 FBI that she had strained relations with Richard W, Carol and Colette, and that Pellicano told
16 her that she needed to be able to anticipate Richard W's and Carol's next move. The FBI
17 contemporaneously memorialized Defendant's admissions and statements in an FBI Form 302
18 interview report.

19 29. On June 3, 2004, Richard D died.

20 **Plaintiff's Discovery of Defendant's Illegal Conduct**

21 30. On May 20, 2007, an article appeared in the New York Times, discussing
22 Pellicano's extensive history of illegal wiretapping on behalf of "A-list" Hollywood celebrities
23 and other high-net-worth individuals. The New York Times reported that Pellicano and more
24 than one dozen co-conspirators had been arrested. The subject article featured a diagram
25 depicting the relationships between Pellicano, his clients, and their respective wiretapped
26 targets. The diagram identified and depicted Defendant as a Pellicano client, and Richard D as
27 the wiretapped target in connection with a high-stakes divorce proceeding.

28 31. Plaintiffs read the Times article on or after May 20, 2007, when a third party

1 forwarded a copy of the article to Richard W. Plaintiffs had made calls to, and received calls
2 from, the Residence frequently during the time that Defendant was utilizing Pellicano's
3 services. Based on the article, they suspected – for the first time – that their calls to and from
4 the Residence had been secretly wiretapped and recorded. Plaintiffs retained counsel to
5 conduct an investigation.

6 32. Prior to May 20, 2007, Plaintiffs did not know or have any reason to suspect that
7 their private and confidential conversations were being recorded. Plaintiffs never consented to
8 the recording of their telephone conversations or to allowing anyone to listen to them. At all
9 times, Plaintiffs intended for their telephone conversations to be confidential and not overheard
10 or recorded by anyone.

11 **Superior Court Action**

12 33. On December 4, 2007, Plaintiffs filed a civil action in Los Angeles Superior
13 Court against Defendant and Pellicano, alleging invasion of privacy under common law,
14 invasion of privacy under of California Penal Code, Part 1, Title 15, Chapter 1.5, including but
15 not limited to sections 631, 632, 632.5, 632.6, 632.7 and 637.2, commonly known as “The
16 Invasion of Privacy Act,” and other causes of action. The action was entitled *Colette McDougall*
17 *et al v. Anthony Pellicano, Jacqueline Colburn, et al.* (Case No. BC 381720).

18 34. On March 25, 2010, Plaintiffs filed a First Amended Complaint in the Superior
19 Court action. Defendant answered by general denial and defended the action through trial.

20 35. In 2008, a federal jury convicted Pellicano on 67 counts of criminal wiretapping,
21 conspiracy, identity theft, bribery, and RICO violations stemming from his wiretapping and
22 related illegal activities. The court sentenced him to 15 years in prison. After Plaintiffs
23 personally served Pellicano, Pellicano failed to respond to the First Amended Complaint, and
24 the clerk entered Pellicano's default prior to trial.

25 **Superior Court Judgment – Basis for *Res Judicata* and Collateral Estoppel**

26 36. Over the course of a nine-day jury trial in October 2012, witnesses testified that
27 Defendant: (a) knew of Pellicano's wiretapping and recording of the telephone lines serving the
28 Residence, (b) ratified such conduct, and confirmed his retention as her agent, by paying him,

1 executing the Limited Power of Attorney and continuing to utilize his services after learning of
2 his illegal activity, and (c) personally participated in eavesdropping and/or listening to recorded
3 telephone conversations on headphones at Pellicano's office.

4 37. The jury rendered special verdicts finding Defendant and Pellicano liable to
5 Plaintiffs for common law invasion of privacy, and for damages for emotional distress in
6 connection therewith, and for violations of California Penal Code § 631., *et seq.* and for
7 statutory damages thereunder.

8 38. The jury's special verdicts in favor of Plaintiffs established that:

- 9 a. Plaintiffs' claims were not time-barred under the statute of limitations;
- 10 b. Plaintiffs each had a reasonable expectation of privacy in their telephone
11 calls to and from the Residence;
- 12 c. Pellicano, acting on behalf of Defendant, intentionally eavesdropped and
13 recorded Plaintiffs' telephone calls;
- 14 d. Pellicano, acting on behalf of Defendant, did so without the call
15 participants' consent;
- 16 e. The intrusions arising from the conduct would be highly offensive to the
17 reasonable person;
- 18 f. The conduct of Pellicano, acting on behalf of Defendant, was a substantial
19 factor in causing harm to each Plaintiff;
- 20 g. Pellicano, acting on behalf of Defendant, illegally wiretapped
21 eavesdropped upon or recorded Plaintiffs' calls, entitling Plaintiffs to
22 damages measured by a statutory penalty of \$5,000 per call;
- 23 h. The conduct of Pellicano, acting on behalf of Defendant, was a substantial
24 factor in causing non-economic injury to each Plaintiff, including
25 emotional distress, determined to be \$150,000 for each Plaintiff; and
- 26 i. None of the Plaintiffs had discovered, or knew of, facts that would have
27 caused a reasonable person to suspect, that he or she had suffered the
28 claimed harm prior to December 4, 2005.

Attached as **Exhibit 1** and incorporated by reference is a true copy of Jury Verdict Form No. 1 rejecting the statute of limitations defense. Attached as **Exhibit 2** and incorporated by reference is a true copy of Jury Verdict Form No. 2. Attached as **Exhibit 3** and incorporated by reference is a true copy of Jury Verdict Form No. 3. Jury Verdict Form Nos. 2 and 3 establish the elements of Plaintiffs' claims of common law and statutory invasion of privacy.

39. On November 19, 2012, based upon the jury's findings and awards, the Superior Court entered judgment (the "Superior Court Judgment") in favor of Plaintiffs and against Defendant and Pellicano, jointly and severally, in the amount of \$3,972,343.29. The Superior Court Judgment includes an award of costs in the sum of \$77,343.29. Attached as **Exhibit 4** and incorporated by reference is a true copy of the Superior Court Judgment. Post-judgment interest on the Superior Court Judgment accrues, by California law (Code of Civil Procedure § 685.010), at the rate of 10% per annum.

40. On January 15, 2013, Defendant appealed the Superior Court Judgment to the California Court of Appeal. The appellate case is designated California Court of Appeal Case No. B246550, entitled *McDougall, et al. v. Colburn*.

41. On January 31, 2013, Defendant commenced the instant voluntary chapter 7 case, triggering an automatic stay of the appeal and enforcement of the Superior Court Judgment.

FIRST CLAIM FOR RELIEF

(All Plaintiffs against Defendant for Exception to Discharge of Debt
for Willful and Malicious Injury to Another (11 U.S.C. § 523(a)(6)))

42. Plaintiffs incorporate by reference each and every allegation of paragraphs 1 through 41, above.

43. At all times relevant, Pellicano was the duly authorized agent of Defendant, acting on her behalf, with her knowledge and consent, pursuant to a power-of-attorney

44. In wiretapping the Residence and recording telephone calls to and from the Residence, to which Plaintiffs were parties, Pellicano acted within the course and scope of his role as the duly authorized agent of Defendant, who ratified his conduct.

1 45. Defendant knowingly authorized, consented to, condoned and allowed
2 Pellicano's wiretapping of the Residence and recording of Plaintiffs' telephone calls to and from
3 the Residence. After learning of such wrongful and intentional conduct by Pellicano,
4 Defendant ratified his actions and conduct by:

- 5 a. Paying and continuing to pay Pellicano for wiretapping and recording
6 Plaintiffs' conversations;
- 7 b. Listening to recordings and otherwise accepting the illicit benefits of the
8 conduct;
- 9 c. Executing a written power-of-attorney in favor of Pellicano, making him
10 her agent to act on her behalf, knowing that he was engaging in
11 wiretapping activity; and
- 12 d. Failing to terminate Pellicano after learning of his illegal conduct.

13 46. By the above-described conduct, Defendant, personally and through her agent,
14 Pellicano, intentionally intruded upon the private conversations of Plaintiffs and thereby
15 willfully invaded Plaintiffs' privacy, acted in a highly-offensive and injurious manner, and
16 caused injury, including emotional distress, to Plaintiffs.

17 47. By the above-described conduct, Defendant, personally and through her agent,
18 Pellicano, violated the provisions of California Penal Code, Part 1, Title 15, Chapter 1.5,
19 including but not limited to sections 631, 632, 632.5, 632.6, 632.7 and 637.2.

20 48. Defendant's conduct was willful and malicious within the meaning of 11 U.S.C.
21 § 523(a)(6), and proximately caused injury to Plaintiffs, as confirmed in the Superior Court
22 Judgment and special verdicts.

23 49. Pursuant to the principles of *res judicata* and collateral estoppel, the Superior
24 Court Judgment and special verdicts establish the elements of this claim for relief as a matter of
25 law.

26 50. WHEREFORE, Plaintiffs pray for a judgment:

27 **On the First Claim for Relief**

28 A. Declaring that the Superior Court Judgment and all related obligations of

1 Defendant to Plaintiffs constitute debts for willful and malicious injury to another within the
2 meaning of 11 U.S.C. § 523(a)(6).

3 B. Excepting from discharge the Superior Court Judgment and all related
4 obligations of Defendant to Plaintiffs;

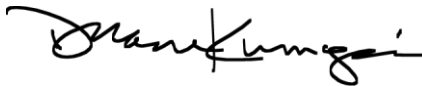
5 C. Granting relief from the Automatic Stay in order that Plaintiffs may
6 enforce the Superior Court Judgment and all related obligations of Defendant to Plaintiffs
7 against property other than property of the estate;

8 D. For costs of suit; and

9 E. For such other and further relief as the Court may deem just and proper.

10 Dated: April 4, 2013

KUMAGAI LAW GROUP PC

11
12 By: 

13 DUANE KUMAGAI

14 Co-Counsel for Plaintiffs Colette MacDougall,
15 Richard W. Colburn, Carol Colburn Grigor and Keith
16 W. Colburn
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EXHIBIT 1

FILED
LOS ANGELES SUPERIOR COURT

OCT 19 2012

JOHN A. CLARK, CLERK
Antonio Ortiz
BY ANTONIO ORTIZ, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

COLETTE McDOUGALL, an individual,	)	CASE NO.: BC 381720 [Hon. Richard E. Rico, Dept. 17]
RICHARD W. COLBURN, an)	
individual, and CAROL COLBURN-	)	JURY VERDICT FORM NO. 1:
HOGEL, an individual, and KEITH W.)	
COLBURN, an individual,	)	AFFIRMATIVE DEFENSE – STATUTE OF
	)	LIMITATIONS
Plaintiffs,)	
)	
v.)	
)	
ANTHONY PELLICANO, an individual,)	
JACQUELINE A. COLBURN, an)	
individual, and DOES 1-50, inclusive,)	
)	
Defendants.)	
)	
)	
)	
)	

Special Verdict Form:
Affirmative Defense – Statute of Limitations (as against Richard W. Colburn)

With regard to plaintiff Richard W. Colburn, we answer the questions submitted to us as follows:

1. Did Jacqueline Colburn prove that Richard W. Colburn's claimed harm occurred before December 4, 2005?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions on this form, have the presiding juror sign and date this form, and then proceed to the next special verdict form.

2. Did Richard W. Colburn prove that prior to December 4, 2005, he did not discover, and did not know of facts that would have caused a reasonable person to suspect, that he had suffered harm that was caused by someone's wrongful conduct?

☒ Yes ☐ No

Signed: _____

Presiding Juror

Dated: _____

10/19/12

After all verdict forms have been signed, deliver this verdict form to the court attendant.

Special Verdict Form:
Affirmative Defense – Statute of Limitations (as against Carol Colburn Grigor)

With regard to plaintiff Carol Colburn Grigor, we answer the questions submitted to us as follows:

1. Did Jacqueline Colburn prove that Carol Colburn Grigor's claimed harm occurred before December 4, 2005?

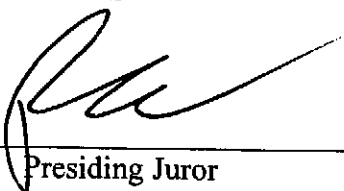
☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions on this form, have the presiding juror sign and date this form, and then proceed to the next special verdict form.

2. Did Carol Colburn Grigor prove that prior to December 4, 2005, she did not discover, and did not know of facts that would have caused a reasonable person to suspect, that she had suffered harm that was caused by someone's wrongful conduct?

☒ Yes ☐ No

Signed: _____


Presiding Juror

Dated: _____

10/19/12

After all verdict forms have been signed, deliver this verdict form to the court attendant.

Special Verdict Form:
Affirmative Defense – Statute of Limitations (as against Keith W. Colburn)

With regard to plaintiff Keith W. Colburn, we answer the questions submitted to us as follows:

1. Did Jacqueline Colburn prove that Keith W. Colburn's claimed harm occurred before December 4, 2005?

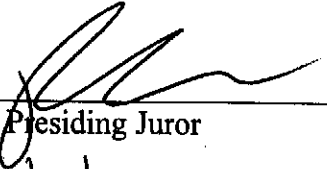
☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions on this form, have the presiding juror sign and date this form, and then proceed to the next special verdict form.

2. Did Keith W. Colburn prove that prior to December 4, 2005, he did not discover, and did not know of facts that would have caused a reasonable person to suspect, that he had suffered harm that was caused by someone's wrongful conduct?

☒ Yes ☐ No

Signed: _____


Presiding Juror

Dated: _____

10/19/12

After all verdict forms have been signed, deliver this verdict form to the court attendant.

Special Verdict Form:
Affirmative Defense – Statute of Limitations (as against Colette McDougall)

With regard to plaintiff Colette McDougall, we answer the questions submitted to us as follows:

1. Did Jacqueline Colburn prove that Colette McDougall's claimed harm occurred before December 4, 2005?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions on this form, have the presiding juror sign and date this form, and then proceed to the next special verdict form.

2. Did Colette McDougall prove that prior to December 4, 2005, she did not discover, and did not know of facts that would have caused a reasonable person to suspect, that she had suffered harm that was caused by someone's wrongful conduct.

☒ Yes ☐ No

If you answered "yes" to question 2 for any of the plaintiffs, proceed to the next set of jury verdict forms for each plaintiff for whom you answered yes to question 2.

Signed: _____

Presiding Juror

Dated: _____

10/19/12

After all verdict forms have been signed, deliver this verdict form to the court attendant.

EXHIBIT 2

FILED
LOS ANGELES SUPERIOR COURT

OCT 19 2012

JOHN J. CLARK, CLERK
BY ANTONIO ORTIZ, REG. #11

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

COLETTE McDOUGALL, an individual,	)	CASE NO.: BC 381720 [Hon. Richard E. Rico, Dept. 17]
RICHARD W. COLBURN, an)	
individual, and CAROL COLBURN-	)	JURY VERDICT FORM NO. 2:
HOGEL, an individual, and KEITH W.)	
COLBURN, an individual,	)	VIOLATION OF STATUTE
)	
Plaintiffs,)	
)	
v.)	
)	
ANTHONY PELLICANO, an individual,)	
JACQUELINE A. COLBURN, an)	
individual, and DOES 1-50, inclusive,)	
)	
Defendants.)	
)	
)	
)	
)	

Special Verdict Form:
Plaintiff Richard W. Colburn's Cause of Action for Violation of Statute

With regard to plaintiff Richard W. Colburn, we answer the questions submitted to us as follows:

1. Did Anthony Pellicano on behalf of Jacqueline Colburn intentionally eavesdrop on or record Richard W. Colburn's conversation by using an electronic device?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions on this form, have the presiding juror sign and date this form, and then proceed to the next special verdict form.

2. Did Richard W. Colburn have a reasonable expectation that the conversation was not being overheard or recorded?

☒ Yes ☐ No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions on this form, have the presiding juror sign and date this form, and then proceed to the next special verdict form.

3. Did Anthony Pellicano on behalf of Jacqueline Colburn have the consent of all parties to the conversation to eavesdrop on or record it?

☐ Yes ☒ No

If your answer to question 3 is no, then answer question 4. If you answered yes, stop here, answer no further questions on this form, have the presiding juror sign and date this form, and then proceed to the next special verdict form.

[continued on next page]

4. How many of Richard W. Colburn's telephone communications to or from the telephone lines at 1120 La Collina Drive were eavesdropped upon, recorded, and/or wiretapped by Anthony Pellicano acting on Jacqueline Colburn's behalf?

Insert number of calls here: 526 289

Next, take the number of calls you wrote as your answer to question 4, and multiply it by \$5,000 to find the total amount of statutory penalty awardable to plaintiff Richard W. Colburn as follows:

289
(number of calls) multiplied by \$5,000 = \$ 1,445,000.00
(awarded to Richard W. Colburn)

Signed: _____

Presiding Juror

Dated: _____

10/19/12

After all verdict forms have been signed, deliver this verdict form to the court attendant.

Special Verdict Form:
Plaintiff Carol Colburn Grigor's Cause of Action for Violation of the Statute

With regard to plaintiff Carol Colburn Grigor, we answer the questions submitted to us as follows:

1. Did Anthony Pellicano on behalf of Jacqueline Colburn intentionally eavesdrop on or record Carol Colburn Grigor's conversation by using an electronic device?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions on this form, have the presiding juror sign and date this form, and then proceed to the next special verdict form.

2. Did Carol Colburn Grigor have a reasonable expectation that the conversation was not being overheard or recorded?

☒ Yes ☐ No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions on this form, have the presiding juror sign and date this form, and then proceed to the next special verdict form.

3. Did Anthony Pellicano on behalf of Jacqueline Colburn have the consent of all parties to the conversation to eavesdrop on or record it?

☐ Yes ☒ No

If your answer to question 3 is no, then answer question 4. If you answered yes, stop here, answer no further questions on this form, have the presiding juror sign and date this form, and then proceed to the next special verdict form.

[continued on next page]

4. How many of Carol Colburn Grigor's telephone communications to or from the telephone lines at 1120 La Collina Drive were eavesdropped upon, recorded, and/or wiretapped by Anthony Pellicano acting on Jacqueline Colburn's behalf?

Insert number of calls here: 59

Next, take the number of calls you wrote as your answer to question 4, and multiply it by \$5,000 to find the total amount of statutory penalty awardable to plaintiff Carol Colburn Grigor as follows:

59 multiplied by \$5,000 = \$ 295,000.00
(number of calls) (awarded to Carol Colburn Grigor)

Signed: _____

Presiding Juror

Dated: _____

10/19/12

After all verdict forms have been signed, deliver this verdict form to the court attendant.

Special Verdict Form:
Plaintiff Keith W. Colburn's Cause of Action for Violation of Statute

With regard to plaintiff Keith W. Colburn, we answer the questions submitted to us as follows:

1. Did Anthony Pellicano on behalf of Jacqueline Colburn intentionally eavesdrop on or record Keith W. Colburn's conversation by using an electronic device?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions on this form, have the presiding juror sign and date this form, and then proceed to the next special verdict form.

2. Did Keith W. Colburn have a reasonable expectation that the conversation was not being overheard or recorded?

☒ Yes ☐ No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions on this form, have the presiding juror sign and date this form, and then proceed to the next special verdict form.

3. Did Anthony Pellicano on behalf of Jacqueline Colburn have the consent of all parties to the conversation to eavesdrop on or record it?

☐ Yes ☒ No

If your answer to question 3 is no, then answer question 4. If you answered yes, stop here, answer no further questions on this form, have the presiding juror sign and date this form, and then proceed to the next special verdict form.

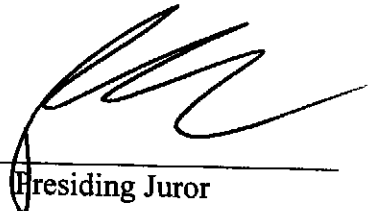
[continued on next page]

4. How many of Keith W. Colburn's telephone communications to or from the telephone lines at 1120 La Collina Drive were eavesdropped upon, recorded, and/or wiretapped by Anthony Pellicano acting on Jacqueline Colburn's behalf?

Insert number of calls here: 135

Next, take the number of calls you wrote as your answer to question 4, and multiply it by \$5,000 to find the total amount of statutory penalty awardable to plaintiff Keith W. Colburn as follows:

135
(number of calls) multiplied by \$5,000 = \$ 675,000.00
(awarded to Keith W. Colburn)

Signed: 
Presiding Juror

Dated: 10/19/12

After all verdict forms have been signed, deliver this verdict form to the court attendant.

Special Verdict Form:
Plaintiff Colette McDougall's Cause of Action for Violation of Statute

With regard to plaintiff Colette McDougall, we answer the questions submitted to us as follows:

1. Did Anthony Pellicano on behalf of Jacqueline Colburn intentionally eavesdrop on or record Colette McDougall's conversation by using an electronic device?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions on this form, have the presiding juror sign and date this form, and then proceed to the next special verdict form.

2. Did Colette McDougall have a reasonable expectation that the conversation was not being overheard or recorded?

☒ Yes ☐ No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions on this form, have the presiding juror sign and date this form, and then proceed to the next special verdict form.

3. Did Anthony Pellicano on behalf of Jacqueline Colburn have the consent of all parties to the conversation to eavesdrop on or record it?

☐ Yes ☒ No

If your answer to question 3 is no, then answer question 4. If you answered yes, stop here, answer no further questions on this form, have the presiding juror sign and date this form, and then proceed to the next special verdict form.

[continued on next page]

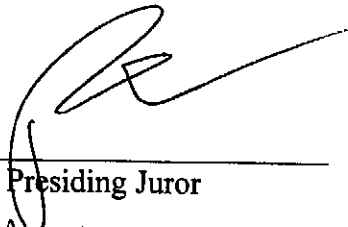
4. How many of Colette McDougall's telephone communications to or from the telephone lines at 1120 La Collina Drive were eavesdropped upon, recorded, and/or wiretapped by Anthony Pellicano acting on Jacqueline Colburn's behalf?

Insert number of calls here: 176

Next, take the number of calls you wrote as your answer to question 4, and multiply it by \$5,000 to find the total amount of statutory penalty awardable to plaintiff Colette McDougall as follows:

176
(number of calls) multiplied by \$5,000 = \$ 880,000.00
(awarded to Colette McDougall)

Signed: _____


Presiding Juror

Dated: _____

10/19/12

After all verdict forms have been signed, deliver this verdict form to the court attendant.

EXHIBIT 3

FILED
105 A
OCT 19 2012
JOHN A. CLARK, CLERK
BY ANTONIO C. DE LA CRUZ, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

COLETTE McDOUGALL, an individual,	)	CASE NO.: BC 381720 [Hon. Richard E. Rico, Dept. 17]
RICHARD W. COLBURN, an)	
individual, and CAROL COLBURN-	)	JURY VERDICT FORM NO. 3:
HOGEL, an individual, and KEITH W.)	
COLBURN, an individual,	)	INVASION OF PRIVACY
)	
Plaintiffs,)	
)	
v.)	
)	
ANTHONY PELLICANO, an individual,)	
JACQUELINE A. COLBURN, an)	
individual, and DOES 1-50, inclusive,)	
)	
Defendants.)	
)	
)	
)	
)	
)	

Verdict Form VF-1800: Privacy-Intrusion into Private Affairs (as to Richard W. Colburn)

We answer the questions submitted to us as follows:

1. Did Richard W. Colburn have a reasonable expectation of privacy in his telephone calls to and from the residence and home office of his father Richard D. Colburn?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions on this form, and have the presiding juror sign and date this form.

2. Did Anthony Pellicano on behalf of Jacqueline Colburn intentionally intrude in Richard W. Colburn's telephone calls to and from the residence and home office of his father Richard D. Colburn?

☒ Yes ☐ No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions on this form, and have the presiding juror sign and date this form.

3. Would Anthony Pellicano's intrusion on behalf of Jacqueline Colburn be highly offensive to a reasonable person?

☒ Yes ☐ No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions on this form, and have the presiding juror sign and date this form.

4. Was Anthony Pellicano's conduct on behalf of Jacqueline Colburn a substantial factor in causing harm to Richard W. Colburn?

☒ Yes ☐ No

If your answer to question 4 is yes, then answer question 5. If you answered no, stop here, answer no further questions on this form, and have the presiding juror sign and date this form.

[continued on next page]

5. What are Richard W. Colburn's damages?

Past noneconomic loss, including emotional distress: \$ 150,000.00

Signed: _____

Presiding Juror

Dated: _____

10/19/12

After all verdict forms have been signed, deliver this verdict form to the court attendant.

Verdict Form VF-1800: Privacy-Intrusion into Private Affairs (as to Carol Colburn Grigor)

We answer the questions submitted to us as follows:

1. Did Carol Colburn Grigor have a reasonable expectation of privacy in her telephone calls to and from the residence and home office of her father Richard D. Colburn?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions on this form, and have the presiding juror sign and date this form.

2. Did Anthony Pellicano on behalf of Jacqueline Colburn intentionally intrude in Carol Colburn Grigor's telephone calls to and from the residence and home office of her father Richard D. Colburn?

☒ Yes ☐ No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions on this form, and have the presiding juror sign and date this form.

3. Would Anthony Pellicano's intrusion on behalf of Jacqueline Colburn be highly offensive to a reasonable person?

☒ Yes ☐ No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions on this form, and have the presiding juror sign and date this form.

4. Was Anthony Pellicano's conduct on behalf of Jacqueline Colburn a substantial factor in causing harm to Carol Colburn Grigor?

☒ Yes ☐ No

If your answer to question 4 is yes, then answer question 5. If you answered no, stop here, answer no further questions on this form, and have the presiding juror sign and date this form.

[continued on next page]

5. What are Carol Colburn Grigor's damages?

Past noneconomic loss, including emotional distress: \$ 150,000.00

Signed: _____


Presiding Juror

Dated: _____

10/19/12

After all verdict forms have been signed, deliver this verdict form to the court attendant.

Verdict Form VF-1800: Privacy-Intrusion into Private Affairs (as to Keith W. Colburn)

We answer the questions submitted to us as follows:

1. Did Keith W. Colburn have a reasonable expectation of privacy in his telephone calls to and from the residence and home office of his father Richard D. Colburn?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions on this form, and have the presiding juror sign and date this form.

2. Did Anthony Pellicano on behalf of Jacqueline Colburn intentionally intrude in Keith W. Colburn's telephone calls to and from the residence and home office of his father Richard D. Colburn?

☒ Yes ☐ No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions on this form, and have the presiding juror sign and date this form.

3. Would Anthony Pellicano's intrusion on behalf of Jacqueline Colburn be highly offensive to a reasonable person?

☒ Yes ☐ No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions on this form, and have the presiding juror sign and date this form.

4. Was Anthony Pellicano's conduct on behalf of Jacqueline Colburn a substantial factor in causing harm to Keith W. Colburn?

☒ Yes ☐ No

If your answer to question 4 is yes, then answer question 5. If you answered no, stop here, answer no further questions on this form, and have the presiding juror sign and date this form.

[continued on next page]

5. What are Keith W. Colburn's damages?

Past noneconomic loss, including emotional distress: \$ 150,000.00

Signed: _____

Presiding Juror

Dated: _____

10/19/12

11-1

After all verdict forms have been signed, deliver this verdict form to the court attendant.

Verdict Form VF-1800: Privacy-Intrusion into Private Affairs (as to Colette McDougall)

We answer the questions submitted to us as follows:

1. Did Colette McDougall have a reasonable expectation of privacy in her telephone calls to and from the residence and home office of her Richard D. Colburn?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions on this form, and have the presiding juror sign and date this form.

2. Did Anthony Pellicano on behalf of Jacqueline Colburn intentionally intrude in Colette McDougall's telephone calls to and from the residence and home office of her employer Richard D. Colburn?

☒ Yes ☐ No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions on this form, and have the presiding juror sign and date this form.

3. Would Anthony Pellicano's intrusion on behalf of Jacqueline Colburn be highly offensive to a reasonable person?

☒ Yes ☐ No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions on this form, and have the presiding juror sign and date this form.

4. Was Anthony Pellicano's conduct on behalf of Jacqueline Colburn a substantial factor in causing harm to Colette McDougall?

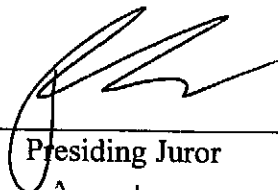
☒ Yes ☐ No

If your answer to question 4 is yes, then answer question 5. If you answered no, stop here, answer no further questions on this form, and have the presiding juror sign and date this form.

[continued on next page]

5. What are Colette McDougall's damages?

Past noneconomic loss, including emotional distress: \$ 150,000.00

Signed:  _____
Presiding Juror

Dated: 10/19/12

After all verdict forms have been signed, deliver this verdict form to the court attendant.

EXHIBIT 4

Antonia Ortiz
FILED
LOS ANGELES SUPERIOR COURT

NOV 19 2012

JOHN A. CLARKE, CLERK
Antonia Ortiz
BY ANTONIO ORTIZ, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

COLETTE McDOUGALL, an individual,)
RICHARD W. COLBURN, an)
individual, and CAROL COLBURN-)
HOGEL, an individual, and KEITH W.)
COLBURN, an individual,)

Plaintiffs,)
v.)

ANTHONY PELLICANO, an individual,)
JACQUELINE A. COLBURN, an)
individual, and DOES 1-50, inclusive,)

Defendants.)

CASE NO.: BC 381720
[Assigned to Judge Richard E. Rico, Dept. 17]
**~~PROPOSED~~ JUDGMENT AGAINST
JACQUELINE A. COLBURN BASED ON
JURY VERDICTS AND DEFAULT
JUDGMENT AGAINST ANTHONY
PELLICANO**

1 This action came on regularly for trial against defendant Jacqueline A. Colburn on
2 October 9, 2012, in Department 17 of the Superior Court, the Hon. Richard E. Rico Judge
3 presiding; the plaintiffs Colette McDougall, Richard W. Colburn, Carol Colburn Grigor (f/k/a
4 Carol Colburn Hogel), and Keith W. Colburn (collectively, "Plaintiffs") appearing by attorneys
5 Lawrence Segal and Wayne D. Skigen of Segal Skigen LLP, and the defendant Jacqueline A.
6 Colburn appearing by attorneys Stanley W. McKiernan and Elham Ghaemmaghami of the
7 McKiernan Law Firm and attorney David J. Mirback of the Mirback Law Firm.

8 A jury was regularly impaneled and sworn. Witnesses were sworn and testified.
9 Evidence and arguments of counsel were presented, the jury was duly instructed by the Court,
10 and the causes of action were submitted to the jury (with directions to return verdicts on special
11 issues). The jury deliberated and thereafter returned into court with its verdicts on three verdict
12 forms, finding that Plaintiffs' claims were not barred by the statute of limitations, that Jacqueline
13 A. Colburn was liable to each of the Plaintiffs on their cause of action for common law invasion
14 of privacy, and that Jacqueline A. Colburn was liable to each of the Plaintiffs on their statutory
15 cause of action for invasion of privacy pursuant to California Penal Code §§ 637.2(a).

16 As to defendant Anthony Pellicano, the Court finds that Anthony Pellicano was properly
17 served with a copy of the Summons on First Amended Complaint and First Amended Complaint
18 filed by Plaintiffs in this action, that Anthony Pellicano failed to answer the First Amended
19 Complaint or appear and defend the action within the time allowed by law, and that Anthony
20 Pellicano's default was entered by the clerk upon Plaintiffs' application.

21 In connection with the requested default judgment against Anthony Pellicano, the Court
22 considered: (a) Plaintiffs' Request for Entry of Default Judgment; (b) Plaintiffs' Summary of
23 Case in Support of Entry of Default Judgment Against Anthony Pellicano; and (c) the testimony
24 given and the exhibits admitted into evidence at the trial of Jacqueline Colburn (in lieu of
25 additional declarations, affidavits or live testimony duplicative of said trial testimony and
26 evidence), and (d) other items of which Plaintiffs requested that the Court consider and/or take
27 judicial notice.

28 It appearing by reason of said verdicts and said evidence that each of the Plaintiffs is

1 entitled to judgment in his or her favor and against defendants Jacqueline A. Colburn and
2 Anthony Pellicano,

3 NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that:

4 1. Plaintiff Richard W. Colburn shall have judgment against, and shall recover from,
5 defendants Jacqueline A. Colburn and Anthony Pellicano, jointly and severally, the sum of
6 \$1,595,000, with interest thereon at the rate of ten percent (10%) per annum from the date of the
7 entry of this judgment until paid;

8 2. Plaintiff Carol Colburn Grigor (formerly known as Carol Colburn Hogel) shall
9 have judgment against, and shall recover from, defendants Jacqueline A. Colburn and Anthony
10 Pellicano, jointly and severally, the sum of \$445,000, with interest thereon at the rate of ten
11 percent (10%) per annum from the date of the entry of this judgment until paid;

12 3. Plaintiff Keith W. Colburn shall have judgment against, and shall recover from,
13 defendants Jacqueline A. Colburn and Anthony Pellicano, jointly and severally, the sum of
14 \$825,000, with interest thereon at the rate of ten percent (10%) per annum from the date of the
15 entry of this judgment until paid;

16 4. Plaintiff Colette McDougall shall have judgment against, and shall recover from,
17 defendants Jacqueline A. Colburn and Anthony Pellicano, jointly and severally, the sum of
18 \$1,030,000, with interest thereon at the rate of ten percent (10%) per annum from the date of the
19 entry of this judgment until paid; and

20 5. Plaintiffs shall have judgment against, and shall recover from, defendants
21 Jacqueline A. Colburn and Anthony Pellicano, jointly and severally, the additional sum of
22 \$77,343.29, for recoverable costs and disbursements.

23
24
25 DATED: 11/19/12

BY: 

Hon. Richard E. Rico
Judge of the Superior Court

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: Kumagai Law Group, PC, 1901 Avenue of the Stars, Suite 1900, Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled (*specify*): **ADVERSARY COMPLAINT FOR EXCEPTION TO DISCHARGE OF DEBT FOR WILLFUL AND MALICIOUS INJURY TO ANOTHER (11 U.S.C. § 523(a)(6))** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **April 4, 2013**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Todd J. Cleary	cleary1@pacbell.net, jslatertclaw@gmail.com
Jay D. Crom	jcrom@bachcrom.com
Duane Kumagai	dkumagai@klgla.com, mshabpareh@klgla.com
Jeffrey Locke	JLtrustee@aol.com, ca61@ecfcbis.com
Office of the U.S. Trustee / SR	USTPRegion17.SF.ECF@usdoj.gov, ltroxas@hotmail.com
Reidun Stromsheim	rstromsheim@stromsheim.com

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On April 4, 2013, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

DEBTOR

Jacqueline Ann Colburn
AKA Jacqueline Ann Gasser
336 Bon Air Ctr
Greenbrae, CA, 94904

Capital One, N.A.
Bass & Associates, P.C.
3936 E. Ft. Lowell Road, Suite #200
Tucson, AZ 85712

Lawrence Segal
Segal Skigen LLP
9595 Wilshire Blvd. #201
Los Angeles, CA 90212-2504

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served):

Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

April 4, 2013
Date

Melody Shabpareh
Printed Name

/s/ Melody Shabpareh
Signature